

## REMARKS

In the Office Action dated September 22, 2005 ("the Office Action"), claims 37-44 were rejected under the judicially created doctrine of obviousness-type double patenting in view of claims 1-8 of U.S. Patent No. 6,718,246. In addition, claims 24-36 and 45-56 were allowed. Applicants thank the Examiner for the allowance of claims 24-36 and 45-56.

Although Applicants do not necessarily agree with the double patenting rejection set forth in the Office Action, to obviate the rejection and to expedite prosecution and allowance of this application, Applicants submit herewith a Terminal Disclaimer. The filing of this Terminal Disclaimer in no way manifests an admission by Applicants as to the propriety of the double patenting rejection set forth in the Office Action. See M.P.E.P. §804.02 *citing Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870 (Fed. Cir. 1991) ("In legal principle, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection"). Should the need arise at a later date, Applicants reserve the right to present arguments regarding the merits of the double patenting rejection and the alleged obviousness of the application claims in view of claims in U.S. Patent No. 6,718,246. Accordingly, Applicants request approval of the Terminal Disclaimer and the withdrawal of the double patenting rejection.

In view of the above, Applicants request withdrawal of the double patented rejection and allowance of this application. If, for any reason, the Examiner disagrees,

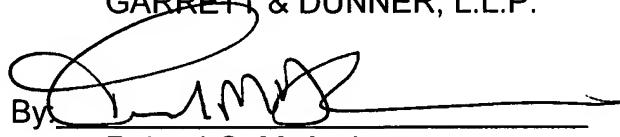
please call the undersigned agent at 202-408-4469 in an effort to resolve any matter still outstanding before issuing another Office Action. The undersigned agent is confident that any issue which might remain can readily be worked out by telephone.

If there is any fee due in connection with the filing of this Reply, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: December 22, 2005



By \_\_\_\_\_  
Roland G. McAndrews  
Reg. No. 41,450

Attachments: Terminal Disclaimer